

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

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WALTER IWACHIW, WORLD NETWORK
INTERNATIONAL SERVICES INC. and
WNIS COMPANIES,

Plaintiffs,

-against-

ORDER

14-CV-5615 (SJF)(SIL)

TRAVELERS, THE STANDARD FIRE
INSURANCE COMPANY, TOWER INSURANCE
COMPANY OF NEW YORK, ADORNO DENKER
ASSOCIATES, INC., CITY OF NEW YORK,
NYU MEDICAL CENTER, ALL CITY OF NEW
YORK DEPT, et al.,

Defendants.

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FEUERSTEIN, District Judge:

Pending before the Court is an application by *pro se* plaintiff Walter Iwachiw (“plaintiff”) for leave to proceed *in forma pauperis* on his appeal of so much of an order of this Court, entered September 16, 2015, as accepted the Report and Recommendation of the Honorable Steven I. Locke, United States Magistrate Judge, dated August 14, 2015, and, for the reasons set forth therein, (1) granted the branch of the motion of defendant The Standard Fire Insurance Company (“Standard Fire”), i/s/h “Travelers, The Standard Fire Insurance Company,” seeking summary judgment dismissing plaintiff’s claims against it pursuant to Rule 56 of the Federal Rules of Civil Procedure for lack of standing and dismissed plaintiff’s claims against Standard Fire in their entirety for lack of standing; (2) granted the motions of defendants Tower Insurance Company of New York (“TICNY”), NYU Medical Center (“NYU”) and Adorno Denker Associates, Inc. (“Adorno Denker”) seeking judgment on the pleadings pursuant to Rule 12(c) of the Federal

Rules of Civil Procedure and (a) dismissed plaintiff's claims against TICNY and NYU in their entirety for failure to state a claim for relief, and (b) dismissed plaintiff's claims against Adorno Denker in their entirety for lack of personal jurisdiction and failure to state a claim for relief; and (3) denied plaintiff's cross motion for summary judgment and request for leave to amend the complaint. For the reasons stated herein, plaintiff's application is denied.

Rule 24(a)(1) of the Federal Rules of Appellate Procedure provides, in relevant part, that with an exception not relevant here¹,

“a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court[] * * * [and] attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.”

The affidavit submitted by plaintiff in support of his motion to appeal *in forma pauperis* is incomplete and/or insufficient insofar as, *inter alia*, (1) in response to the question whether he received any money from any source within the past twelve (12) months and, if so, to identify the source and amount of money received, plaintiff wrote: “-- 0 --,” but then he indicated that he received public benefits; (2) he did not indicate the source or amount of public benefits he received within the past twelve months; (3) he answered “no,” to the question whether he owns “any apartment, house or building, stocks, bonds, notes, automobiles or other property,” but then he indicated, “under court order confiscations: 48-35 41 St., Sunnyside, NY 11104, 11 McArthur Ave., Huntington, NY,” without any explanation; he reported no monthly expenses and put only a zero (0) in answer to the question asking if he paid rent or a mortgage and, if so, the amount he

¹ Since this action was removed from the Supreme Court of the State of New York, County of New York, to federal court by Standard Fire, plaintiff did not seek leave to proceed *in forma pauperis* in this action. Accordingly, Rule 24(a)(3) of the Federal Rules of Appellate Procedure is not applicable.

paid each month; and he did not indicate the issue(s) he intends to present on the appeal as required by Rule 24(a)(1)(C) of the Federal Rules of Appellate Procedure. Since plaintiff has not attached an affidavit satisfying the requirements of Rule 24(a)(1) of the Federal Rules of Civil Procedure, his application for leave to proceed on appeal *in forma pauperis* is denied.

III. Conclusion

For the reasons set forth herein, plaintiff's motion for leave to proceed on appeal *in forma pauperis* is denied. Pursuant to Rule 24(a)(4) of the Federal Rules of Appellate Procedure, the Clerk of the Court shall serve notice of entry of this order upon all parties and "immediately notify" the United States Court of Appeals for the Second Circuit of this decision. Pursuant to Rule 24(a)(5) of the Federal Rules of Appellate Procedure, *inter alia*, plaintiff may file a motion for leave to proceed on appeal *in forma pauperis* in the United States Court of Appeals for the Second Circuit **within thirty (30) days after the Clerk of this Court serves notice of entry of this order upon him.**

SO ORDERED.

/s/
SANDRA J. FEUERSTEIN
United States District Judge

Dated: October 16, 2015
Central Islip, New York